

REMARKS

Claims 1 – 31 remain in the application and stand rejected. Claim 19 is objected to. Claims 1, 9, 19, 20, 23, 26 and 27 are amended herein. No new matter is added.

Claim 19 is objected to for containing informalities. Partially responsive thereto, objected to claim 19 is amended herein. Reconsideration and withdrawal of the objection to the claims is respectfully solicited.

Amendments to the specification are formal in nature. Amendments to the claims are to better describe the invention and supported by the specification and claims as filed. No new matter is added by this proposed amendment.

Claims 23 and 26 are rejected under 35 U.S.C. §112 for containing informalities. Responsive thereto, claims 23 and 26 are amended herein as directed by the Examiner. Reconsideration and withdrawal of the rejection to claims 23 and 26 under 35 U.S.C. §112 is respectfully solicited.

Claims 4, 5, 7, 8, 12, 13, 15, 16, 22, 23, 25, 26, 29 and 30 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,199,193 to Oyagi et al. in view of “Codestriker” to Sitskys. Codestriker could only be applied under 35 U.S.C. §103(a) as a reference under 35 U.S.C. §102(b). However, Codestriker was published, at least as far as the applicants can tell, on or about December 1, 2001, about 40 days prior to the filing date of the present application and well short of the one year requirement to qualify as a reference under 35 U.S.C. §102(b). While the applicants provided the Codestriker reference in an information disclosure statement filed with the present application, 37 C.F.R. §1.97(h) provides in pertinent part: “The filing of an information disclosure statement **shall not be construed to be an admission** that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b).” (Emphasis added.) Therefore, Codestriker is not available to be applied as a reference under 35 U.S.C. §102(b) to find the present invention obvious under 35 U.S.C. §103(a). Reconsideration and withdrawal of the rejection of claims 4, 5, 7, 8, 12, 13, 15, 16, 22, 23, 25, 26, 29 and

30 under 35 U.S.C. §103(a) over Oyagi et al. in view of Codestriker is respectfully solicited.

Claims 1 – 3, 6, 9 – 11, 14, 17 – 21, 24, 27, 28 and 31 are rejected as being unpatentable under 35 U.S.C. §102(e) over Oyagi et al. Specifically, it is asserted that “comment-space inclusive prototype presentation means... to allow the user to write comments” in Oyagi et al. at col. 2, lines 12 – 16 teaches the review facility of claim 1, lines 1 and 2 and the review method of claim 10, line 1. Further, it is asserted that “generating a comment-space inclusive prototype” in Oyagi et al. at col. 2, lines 13 – 14 teaches the preparation means as recited in claim 1, line 4 and the preparation step (a) recited in claim 10, line 3. Regarding claim 1, the input area where a user “writes his/her comments and suggestions in the given space” in Oyagi et al. at col. 5, lines 28 – 29 is asserted to teach means for collecting comments at lines 6 – 7; and that the “user’s comments and suggestions about the prototype screen are returned to the user feedback distribution unit” in Oyagi et al. at col. 5 lines 44 – 46 teaches a means for distributed collected comments at lines 8 – 9. Regarding claim 10, it is asserted that comment-space inclusive software and the comment space in Oyagi et al. Figure 2 teaches the step (b) of making the prepared item available to reviewers for comments with reviewers returning comments at lines 4 – 6; and that conducting the formal review meeting of step (c) is taught by having “reviewers make comments, and ‘distributes (sic) them as user feedback to the development engineers involved in the project’ (col. 4, lines 57-58) for a final review by the development engineers.” The rationale for rejecting claims 1 and 10 is further applied to the program product claims 19 and 27.

Oyagi et al. teaches a “software design evaluation server that facilitates end-user participation in a software development process so as to prevent any defects in functional specifications from remaining unsolved in the final version of the application that is developed.” *Abstract*, lines 1 – 5. Thus, Oyagi et al. teaches a system for what is well known in the art as beta testing. Users are presented with software prototypes that have added comment space “that allows the user to write his/her comments and suggestions about features of display screens or data items included in the screens.” *Id.*, lines 8 – 10. “An identification data storage unit stores information for identifying the screens and

items, as well as holding information for identifying development engineers involved in the software development.” *Id*, lines 13 – 16. In particular, a “user feedback distribution unit receives the user's comments and suggestions about the screens and/or items of the prototype through the network, and **distributes the received comments and suggestions to relevant development engineers**, based on the identification data stored in the identification data storage unit.” *Id*, lines 16 – 21 (emphasis added).

Clearly, Oyagi et al. does not teach test participant comments being made available or distributed to other test participant. Instead Oyagi et al. teaches a beta test system and method wherein beta test software is made available to potential users and that forwards user comments directly to a responsible engineer. While the beta test may be interactive and the individual comments from beta test users forwarded to engineers may be considered collaboration between the engineers and the beta test users, *this* is not “**interactive collaborative review**” as recited in claim 1 as amended, line 5. *See, e.g.*, Figures 1 and 3 and page 5, lines 5 – 31 and page 6, lines 11 – 25. Nor is *it* “making said prepared item available ... for comments ...; and ... conducting a formal review meeting of said plurality of reviewers” as claim 10 recites, lines 4 – 7. Clearly, a beta tester providing comments that are forwarded to engineers as taught by Oyagi et al. does result in a situation where “one or more of the previously provided comments sufficiently provides attending reviewers awareness of a particular condition with respect to said item that said comment may be addressed in said item prior to said formal review meeting,” as claim 10 further recites, lines 8 – 10. Accordingly, Oyagi et al. does not teach the present invention as recited in claims 1, 10 or, correspondingly claims 19 and 27.

Since dependent claims include all of the differences with the prior art as the claims from which they depend, Lewis fails also to teach the present invention as recited in claims 2, 3, 6, 9, 11, 14, 17, 18, 20, 21, 24, 28 and 31, which depend from claims 1, 10, 19 and 27. Therefore, reconsideration and withdrawal of the rejection of claims 1 – 3, 6, 9 – 11, 14, 17 – 21, 24, 27, 28 and 31 under 35 U.S.C. §102(e) is respectfully solicited.

The applicants have considered the other references cited but not relied upon and find them to be no more relevant than the references upon which the Examiner relied for the rejection.

The applicants thank the Examiner for efforts, both past and present, in examining the application. Believing the application to be in condition for allowance, both for the amendment to the claims and for the reasons set forth above, the applicants respectfully request that the Examiner, reconsider and withdraw the rejection of claims 1 – 31 under 35 U.S.C. §§102(e) and 103(a) and allow the application to issue.

Should the Examiner believe anything further may be required, the Examiner is requested to contact the undersigned attorney at the telephone number listed below for a telephonic or personal interview to discuss any other changes.

Respectfully submitted,



May 19, 2005

(Date)

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